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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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EXAMINER

FLETCHER, JERRY-DARYL

ART UNIT

PAPER NUMBER

3715

MAIL DATE

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/611,665	Applicant(s) ROSCELLE ET AL.	
	Examiner JERRY-DARYL FLETCHER	Art Unit 3715	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10 August 2010.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-17, 20-51 and 54-79 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-17, 20-51 and 54-79 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 07 January 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

Detailed Action

1. This is a **FINAL OFFICE ACTION** in response to communications received on 08/10/2010. Claims 35-51 and 54-68 have been amended and the rest of the claims have remained as previously presented. Claims 1-17, 20-51 and 54-79 are pending in the current application and are addressed below.

Response to Amendment

2. The applicant's amendments to the claims are sufficient to overcome the 35 U.S.C. 101 rejections set forth in the previous rejection.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1-17, 20-51 and 54-79 are rejected under 35 U.S.C. 103(a) as being unpatentable over US 6,554,618 to Lockwood (Lockwood) in view of US 6,302,698 to Ziv El (Ziv El) and US 4,958,284 to Bishop et al (Bishop).

With Respect To Claims 1-17, 20-51 & 54-79

With regard to the limitation of forwarding a query pertaining to a structured entity having a plurality of parts (as in claims 1, 21, 35, 55), and a means for forwarding a query having a plurality of parts and for forwarding a plurality of response templates for answering the query (as in claims 69 and 74) Lockwood disclose that a test (e.g. query) may be presented to user (Col. 6: 57-64). With regard to the feature wherein the query

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having a plurality of parts, Lockwood discloses that a test may contain a plurality of questions pertaining to various aspects of a specific subject, such as Algebra (Col. 6:64 - Col. 7: 19). Additionally, a user of the invention could choose to include any type of questions for any subject; as desired.

Lockwood, however, does not specifically disclose the limitations of forwarding a plurality of response templates for answering the query, and receiving a response from a first client device wherein the response comprises a completed response template linking a plurality of parts of the structured entity (or a means for receiving a response from a first client device, wherein the response comprises a completed response template linking a plurality of parts of the structured entity (as in claim 69)). Lockwood further does not disclose that the plurality of parts of the query are interrelated.

However, Ziv discloses a system for on-line teaching and learning including a plurality of templates, wherein the teacher can select among the plurality of templates. The system further includes the “explanation required” box that can be marked (See Figures 5, element 118 and figure 12, element 141). Ziv further discloses a multi-step math problem and an “explanation box” that can be checked requiring student to further justify their answer.

Furthermore, Bishop teaches a system for processing open-ended questions wherein a user selects a response template from among a plurality of response templates, and wherein the user’s response links one or more of a plurality of parts of a structured entity (Fig. 3C, col. 1, ll. 12-24; col. 2, ll. 46-66).

Therefore, it would have been obvious to one of ordinary skill in the art to modify the Lockwood invention in view of the teachings of Bishop by using the known teaching of using a plurality of templates to provide a user with a “hybrid question” as taught by Bishop in order to yield the predictable result of eliciting a user's knowledge and feelings.

With regard to claims 2, 3, 21, 22, 37, 55, 56, 71 and 75 and the limitation of aggregating (or a means for aggregating, as in claim 71) the responses from the first and second client devices to produce and aggregated result (as in claims 3 and 37), and providing a response to an aggregating device from a first client device, wherein the response comprises a completed response template linking a plurality of parts of the structured entity (as in claims 21 and 55), and providing a response to an aggregating device from a second client device, wherein the response comprises a completed response template linking a plurality of parts of the structured entity (as in claims 22 and 56), Lockwood discloses that assessment reports may be generated based on the students' performances on tests, and that aggregated results, such as average grades, may be included (Col. 18: 62- Col. 19: 56; Figs. 8, 10).

With regard to claims 4, 5, 23-25, 38, 39, 57-59, 72, and 73, 76 and 78 and the limitations of forwarding the aggregated result to the first or second client device (as in claims 4, 38, 59, and 72), and forwarding the response of the first client device to the second client device (as in claims 5, 25, 39, and 73), requesting for an aggregated result (or means for requesting, as in claim 76) of the responses from the first and second client device (as in claims 23 and 57), receiving the aggregated result (as in

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claims 24, 58, and 77), and receiving the response of the first client device by the second device (as in claims 25, 59, and 78), Lockwood discloses that a server, connected to a reports database, may be used for transmission and reception of data from the client computers in the system (Col. 13: 17-34), and that students may be provided with reports (Col. 4: 21-32). Lockwood discloses examples of reports which may include aggregated results (Figs. 8 and 10). Therefore, a user of one of the client computers (such as a student) could receive reports (i.e., aggregated results) on a client device. Additionally, Lockwood discloses that a student's test responses may be transmitted from one computer to another computer in order to be evaluated (Col. 7: 20-39; Col. 14:58 - Col. 15: 12).

With regard to claims 6-14, 26-34, 40-48, and 60-68, and the limitations wherein the structured entity comprises a sequential multi-step process (as in claims 6, 26, 40, and 60), a literary work or a portion of a literary work (as in claims 7, 27, 41, and 61), a poem (as in claims 8, 28, 42, and 62), a computer program (as in claims 9, 29, 43, and 63), a musical composition (as in claims 10, 30, 44, and 64), a biological organism (as in claims 11, 31, 45, and 65), a computer data structure (as in claims 12, 32, 46, and 66), an architectural structure (as in claims 13, 33, 47, and 67), and a chemical process (as in claims 14, 34, 48, and 68), it is noted although these specific recitations are not found in the prior art, these differences are only found in the nonfunctional descriptive material and are not functionally involved in the recited steps since the forwarding of the query and the receiving of the query are unaffected by the subject matter of the structured entity. Therefore, it would have been obvious to one possessing ordinary skill

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in the art, at the time of the invention, to have used different types of subject matter in the structured entity since such data does not functionally relate to the steps in the claimed method and because the subjective interpretation of the data does not patentably distinguish the claimed invention.

With regard to claims 15-16 and 49-50, and the limitation wherein the response contains an input entered by using the first client device, Bishop discloses the use of a computer for entering the input (col. 3, ll. 8-10).

Applicant admits that it is old and well known in the art to use computers to automate manual processes.

It would have been obvious to one possessing ordinary skill in the art, at the time of the invention, to have used a computer for the input in Bishop since it would represent the upgrading of a manual process by the known method of computerization in order to yield the predictable result of increasing system efficiency.

With regard to claims 17, 20, 51, and 54, and the limitation wherein the input comprises linking the at least one response template to at least one part of the structured entity (as in claims 17 and 51), and wherein the input comprises at least one tag (as in claims 20 and 54), Lockwood discloses that a user may take a test and input answers to the test questions, as previously described (Col. 14: 58- Col. 15: 12).

Therefore, the questions may comprise any subject matter or type of question desired by a user of the invention, which could include questions (i.e., response templates) requiring a specific type of answer (i.e., linking the question to the general subject matter of the test, or inputting a tag).

With regard to claim 79, and the limitation of a first client device, Lockwood discloses a plurality of workstations (Items 310, 360, and 370 in Fig. 3). With regard to the limitation of an aggregating device for forwarding a query pertaining to a structured entity having a plurality of parts and a plurality of response templates for answering the query to the first client device, where the aggregating device receives a response from the first client device, wherein the response comprises a completed response template linking a plurality of parts of the structured entity, Lockwood discloses that computers may be used to implement the features of the invention (Col. 11: 49-60).

Response to Arguments

5. In the previous Office Action, **OFFICIAL NOTICE** was taken that:
- a. it is old and well known in the art to use computers to automate manual processes.

Applicant failed to properly challenge the statements of **OFFICIAL NOTICE** that were taken, and as such, they have become admitted prior art under MPEP 2144.03 C, which states, "To adequately traverse such a finding, an applicant must specifically point out the supposed errors in the examiner's action, which would include stating why the noticed fact is not considered to be common knowledge or well-known in the art. See 37 CFR 1.111(b). See also Chevenard, 139 F.2d at 713, 60 USPQ at 241 ("[I]n the absence of any demand by appellant for the examiner to produce authority for his statement, we will not consider this contention."). A general allegation that the claims define a patentable invention without any reference to the examiner's assertion of official notice would be inadequate. If applicant adequately traverses the examiner's

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assertion of official notice, the examiner must provide documentary evidence in the next Office action if the rejection is to be maintained. See 37 CFR 1.104(c)(2). See also *Zurko*, 258 F.3d at 1386, 59 USPQ2d at 1697 (“[T]he Board [or examiner] must point to some concrete evidence in the record in support of these findings” to satisfy the substantial evidence test). If the examiner is relying on personal knowledge to support the finding of what is known in the art, the examiner must provide an affidavit or declaration setting forth specific factual statements and explanation to support the finding. See 37 CFR 1.104(d)(2). If applicant does not traverse the examiner’s assertion of official notice or applicant’s traverse is not adequate, the examiner should clearly indicate in the next Office action that the common knowledge or well-known in the art statement is taken to be admitted prior art because applicant either failed to traverse the examiner’s assertion of official notice or that the traverse was inadequate. If the traverse was inadequate, the examiner should include an explanation as to why it was inadequate.”

6. Applicant's arguments filed 08/10/2010 have been fully considered but they are not persuasive. Applicant argues that the prior art of Bishop, along with the other prior art of record, fails to teach that a response template is selected from among a plurality of possible templates, or the linking of a plurality of parts of a structured entity by the selected response template.

With respect to the applicant’s arguments that the hybrid question of Bishop fails to read on the claimed selection of a response template from among a plurality of possible templates, it is noted that the hybrid question allows the user to select to either

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check a preselected box (one possible template) or to construct an open-ended response (another possible template). This is in stark contrast to applicant's arguments that the user does not have the ability to choose a template. The arguments are unpersuasive and the rejection is maintained.

With respect to applicant's arguments that the prior art of record fails to teach that the selected template links a plurality of parts of a structured entity, it is noted that Bishop teaches that one type of response format is a pre-coded response format. By selecting from the pre-coded response, the other pre-coded response options are linked to the negative of the query being responded to since the choice of one necessitates that the others are not selected such as in the close-ended question in Figure 3A. The applicant's arguments are unpersuasive and the rejection is maintained.

Conclusion

7. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

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8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to JERRY-DARYL FLETCHER whose telephone number is (571)270-5054. The examiner can normally be reached on Monday to Friday 9:00 a.m. to 5:30 p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Xuan M. Thai can be reached on (571) 272-7147. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Kathleen Mosser/
Primary Examiner, Art Unit 3715

/J.D.F./
Examiner, Art Unit 3715